

HSCR 95

HOUSE OF REPRESENTATIVES
TWENTY-FOURTH LEGISLATURE, 2007
STATE OF HAWAII

H.B. NO. 1474
H.D. 1

A BILL FOR AN ACT

RELATING TO TAXATION OF PREMIUMS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 431:7-202, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§431:7-202 Taxation.** (a) Each authorized insurer,
4 except with respect to all life insurance contracts, ocean
5 marine insurance contracts, [~~and~~] real property title insurance
6 contracts, and prepaid health care plan contracts as subsection
7 (e), shall pay to the director of finance through the
8 commissioner a tax of 4.265 per cent on the gross premiums
9 written from all risks or property resident, situated, or
10 located within this State, during the year ending on the
11 preceding December 31, less return premiums (but not including
12 dividends paid or credited to policyholders), and less any
13 reinsurance accepted (the tax upon such business being payable
14 by the direct writing insurer).

15 All premiums written, procured, or received in the State
16 shall be presumed to have been from risks or property resident,



1 situated, or located within the State. This presumption may be
2 rebutted as to any premium:

3 (1) By showing that it has been properly allocated or
4 apportioned and reported as a taxable premium of
5 another state or other appropriate taxing authority;
6 or

7 (2) By facts as to the residence, situation, or location
8 of the risks or property, conclusively showing the
9 nontaxability of the premium.

10 (b) Each authorized insurer, with respect to life
11 insurance contracts, shall pay to the director of finance
12 through the commissioner a tax of 2.75 per cent on the gross
13 premiums received from all risks resident within this State,
14 during the year ending on the preceding December 31, less return
15 premiums, dividends paid or credited to policyholders, and
16 reinsurance accepted (the tax upon [~~such~~] the business being
17 payable by the direct writing insurer).

18 The tax also shall apply to premiums for insurance written
19 on individuals residing outside the State unless the direct
20 writing insurer shall show the payment of a comparable tax to
21 another appropriate taxing authority. [~~Such~~] A showing may be



1 required as to any premium written, procured, or received in the
2 State.

3 (c) Each authorized insurer [~~shall~~], with respect to all
4 ocean marine insurance contracts written within the State,
5 during the year ending on the preceding December 31, shall pay
6 to the director of finance through the commissioner a tax of
7 .8775 per cent on its gross underwriting profit. The gross
8 underwriting profit shall be ascertained by deducting from the
9 net premiums (i.e., gross premiums less all return premiums and
10 premiums for reinsurance ceded) on [~~such~~] the ocean marine
11 insurance contracts, the net losses paid (i.e., gross losses
12 paid less salvage and recoveries on reinsurance ceded) during
13 [~~such~~] each year under [~~such~~] the contracts. In the case of an
14 insurer issuing participating contracts, the gross underwriting
15 profit shall not include, for computation of the tax prescribed
16 by this subsection, the amount refunded, or paid as
17 participation dividends, by [~~such~~] the insurer to the holders of
18 [~~such~~] the contracts.

19 (d) Each authorized insurer, with respect to real property
20 title insurance contracts written on real property situated
21 within this state during the year ending on the preceding
22 December 31, shall pay to the director of finance through the



1 commissioner a tax of 4.265 per cent of the amount of the risk
2 premium actually received by the authorized insurer for the
3 provision of [~~such~~] the insurance. The amount of the risk
4 premium received by the authorized insurer for the provision of
5 real property title insurance shall be an amount equal to the
6 amount actually received by the authorized insurer solely for
7 the provision of real property title insurance coverage in
8 accordance with the underwriting agreement or contract between
9 the authorized insurer and the underwritten title company.

10 (e) Each authorized insurer, with respect to prepaid
11 health care plan contracts as defined in chapter 393, shall be
12 exempt from the tax on gross premiums under subsection (a);
13 provided that the authorized insurer can demonstrate a
14 sufficient level of mutual benefit or public good as is required
15 of a nonprofit insurer.

16 [~~(e)~~] (f) No return premium shall be deductible unless the
17 original gross premium, or an adjustment thereof, in an amount
18 equal to or in excess of the return premium, has been
19 concurrently or previously reported as taxable under this
20 section or a prior similar law of the State.

21 [~~(f)~~] (g) The taxes imposed by subsections (a), (b), (c),
22 and (d) shall be paid quarterly. The quarterly tax shall be due



1 and payable on or before the last day of the calendar month
2 following the quarter in which it accrues, coinciding with the
3 filing of the statement provided for in section 431:7-201.

4 In addition to the quarterly tax and quarterly tax
5 statement, the annual tax shall be due and payable on or before
6 March 1 coinciding with the filing of the statement provided for
7 in section 431:7-201.

8 All amounts paid under this subsection, other than fines,
9 shall be allowed as a credit on the annual tax imposed by
10 subsections (a), (b), (c), and (d).

11 If the total amount of installment payments for any
12 calendar year exceeds the amount of annual tax for that year,
13 the excess shall be treated as an overpayment of the annual tax
14 and be allowed as a refund under section 431:7-203.

15 Any insurer failing or refusing to pay the required taxes
16 above stated when due and payable shall be liable for a fine of
17 \$500 or ten per cent of the tax due, whichever is greater; plus
18 interest at a rate of twelve per cent per annum on the
19 delinquent taxes. The taxes may be collected by distraint, or
20 the taxes, fine, and interest may be recovered by an action to
21 be instituted by the commissioner in the name of this State, in
22 any court of competent jurisdiction. The commissioner may



1 suspend the certificate of authority of the delinquent insurer
2 until the taxes, fine, and interest, should any be imposed, are
3 fully paid.

4 [~~g~~] (h) In establishing the prepayment amount of an
5 insurer who has acquired the business of another insurer, the
6 amount of tax liability of the acquiring insurer for the
7 preceding calendar year shall be deemed to include the amount of
8 tax liability of the acquired insurer for that year."

9 SECTION 2. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 3. This Act shall take effect on July 1, 2007 and
12 shall apply to taxable years beginning after December 31, 2007.



Report Title:

Tax Exemption; Health Insurer; Prepaid Health Plan Premiums

Description:

Eliminates the premium tax on health insurers of prepaid health care plan contracts. (HB1474 HD1)

